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THE TRANS-ISTHMIAN CANAL

A STUDY IN

AMERICAN DIPLOMATIC HISTORY

(1825-1904)

BY

CHARLES HENRY HUBERICH, D. C. L.

ADJUNCT PROFESSOR OF POLITICAL SCIENCE AND LAW
IN THE UNIVERSITY OF TEXAS

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THE TRANS-ISTHMIAN CANAL:

A STUDY IN AMERICAN DIPLOMATIC HISTORY (1825-1904).[1]

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The projected canal across the isthmus joining the two Americas, which has interested the governments of Europe since the discovery of the American continent, played no rôle in the foreign policy of the United States until after the Spanish-American colonies had achieved their independence. In 1825, Señor Antonio José Canaz, the representative of the Central American Republic at Washington, proposed to the United States that the two governments coöperate in the construction of the Nicaragua canal. Señor Canaz was assured of "the deep interest which is taken by the government of the United States in the execution of an undertaking which is so highly calculated to diffuse an extensive influence on the affair of mankind." In addition, Mr. Clay, then secretary of state, instructed the American chargé d'affaires in Central America to collect all data relative to the cost and practicability of the Nicaragua route. The subject aroused considerable interest in commercial circles, and a contract was actually entered into between the Central American Republic and some New York capitalists for the construction of the canal.[2]

The canal project was one of the topics to be discussed at the Panama congress in 1826. In the instructions to the American delegates to that congress the policy of the United States in reference to the canal is announced for the first time. "If the work should ever be executed," writes Secretary Clay, "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but

[1]The greater part of this article was published by the writer early in 1903, in the *Revue du droit public et de la science politique*, Vol. XIX, pp. 193-213.

[2]Keasbey, *The Nicaragua Canal and the Monroe Doctrine*, p. 143.

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should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls."[1]

A few years later the king of the Netherlands launched his project of a canal across Central America "to be opened on the same terms to all nations."[2] As this was entirely in accordance with the American view, no diplomatic action was taken by the United States, except that the American minister to the Netherlands was instructed to endeavor to obtain for the government or citizens of the United States a majority of the shares of stock in the enterprise, and a share in the monopoly.

On March 3, 1835, the Senate passed a resolution requesting the President to open negotiations with Central America and New Granada in order to secure "forever * * * the free and equal right of navigating such canal to all nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking and complete the work." In conformity with this resolution President Jackson appointed Mr. Charles Biddle to investigate the different routes proposed. Mr. Biddle returned to the United States in September, 1836, and from his report the President was convinced that "the probability of an early execution of any of the projects which have been set on foot for the construction of the communication alluded to is not so great as to render it expedient to open negotiation at present with any foreign government upon the subject."[3]

On March 2, 1839, a similar resolution was adopted by the House of Representatives, which resulted in the sending of another agent to the isthmus, who reported in favor of the Nicaragua route, but did not deem it expedient to undertake the work at the moment, owing to the political situation in Central America.

The concession for "le canal Napoléon de Nicaragua" (January 8, 1845) did not call forth any discussion in the United States. But indirectly we may attribute to it the negotiations with New Granada, which resulted in the treaty of December 12, 1846. The

[1] Mr. Clay to Messrs. Anderson and Sargent, May 8, 1826. Wharton, *Digest of the International Law of the United States*, Vol. III, p. 1. Neither of the delegates was present at the Congress.

[2] The concession was obtained December 18, 1830.

[3] *Messages and Papers of the Presidents*, Vol. III, pp. 272, 273.

thirty-fifth article of this treaty provides that citizens of the United States shall enjoy all the exemptions, privileges, and immunities concerning commerce and navigation enjoyed by citizens of New Granada; and "that this equality of favors shall be made to extend to the passengers, correspondence, and merchandise of the United States, in their transit across the said territory, from one sea to the other. The government of New Granada guarantees to the government of the United States that the right of way or transit across the isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States * * * than is, under like circumstances, collected from Granadian citizens. * * * And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages * * * the United States guarantee, positively and efficaciously, to New Granada * * * the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory."[1]

In his message to the Senate, submitting this treaty, President Polk says:[2]

[1]Since June 10, 1848, the date of the exchange of ratifications, the treaty has been subject to twelve months' notice of termination by either party.

[2]*Messages and Papers of the Presidents*, Vol. IV, pp. 512, 513. The treaty was ratified without a dissenting vote, but already in the following year the Committee on Naval Affairs of the House referring to the guaranty of sovereignty says: "This is a very wide departure from our foreign policy hitherto, and its justification is only to be found in the exigency of the case, the overruling necessities of our position with reference to our terriories on the Pacific."

On May 10, 1847, the government of New Granada granted to a French company the right to construct a railway across the isthmus of Panama,

"In entering into the mutual guarantees proposed by the thirty-fifth article of the treaty, neither the government of New Granada, nor that of the United States has any narrow or exclusive view. The ultimate object * * * is to secure to all nations the free and equal right of passage over the isthmus. If the United States, as the chief of the American nations, should first become a party to this guaranty, it can not be doubted—indeed it is confidently expected by the government of New Granada—that similar guarantees will be given to that republic by Great Britain and France. * * * There does not appear any other effectual means of securing to all nations the advantages of this important passage but the guaranty of great commercial powers that the isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans can not be suffered to depend upon the wars and revolutions which may arise among different nations."

The next important step of American diplomacy in regard to the isthmus was the conclusion of the Clayton-Bulwer treaty. Before considering the terms of this treaty, it will be necessary to notice briefly the circumstances that led to its negotiation. On the eastern coast of Central America Great Britain had assumed practically undisputed control. The Mosquito territory had been virtually controlled by Great Britain since 1830. In August, 1841, McDonald, the British superintendent of Belize, acting as regent of the infant "king" of the Mosquitos, had seized San Juan del Norte as part of the territory of Mosquitia, thus placing Great Britain in control of the eastern terminus of the proposed Nicaragua canal. The action of McDonald was not disavowed by the British government, and no attention was paid to the repeated protests of the Central American republics. On the contrary, on June 30, 1847, the British agents in Central America were instructed to communicate to the several states that Great Britain, in the exercise of her ancient protectorate over the Mosquito country,

and to have the exclusive privilege of operating such railway for a period of ninety-nine years. The French company failing to comply with the terms of the grant, the government granted a concession to an American company for the same period of time. Under this concession the Panama railway was built, and put in operation January 27, 1855.

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laid claim to territory as far south as San Juan (Greytown).[1] Nicaragua was notified to evacuate San Juan by January 1, 1848. An appeal to the United States by Nicaragua was of no effect, and on the date mentioned Great Britain took possession of San Juan. In addition, Great Britain was in possession of Belize (British Honduras) and of the Bay Islands. On the western coast Great Britain had seized Tigre Island, in the Gulf of Fonseca, (October 16, 1849), thus commanding also the probable western terminus of the canal.[2] In a word, England was master of Central America.

The acquisition of California by the treaty of Guadalupe-Hidalgo (February 2, 1848), followed almost immediately by the discovery of gold in the new territory, and the consequent rush of population to the gold fields, brought the problem of the isthmian transit in the front rank of public attention in the United States.

Mr. Elijah Hise was appointed chargé d'affaires to the Central American states, with instructions to investigate the British claims to the Mosquito coast, and to enter into commercial treaties with the countries to which he was accredited. His instructions, however, did not extend to the securing of any rights over the transit routes. Nevertheless, with a far-sightedness greater than that of his government, Mr. Hise concluded a treaty with Nicaragua in respect to this latter object (June 21, 1849).

The Hise treaty conferred upon the United States or its citizens the exclusive right to construct a canal through Nicaragua. The United States were to be permitted to erect fortifications and to station troops along the channel. In the event of a war in which either of the parties to the treaty was involved, the canal was to be closed to all vessels of the enemy, as well as to neutrals carrying contraband of war to such enemy. During a war in which neither the United States nor Nicaragua was a belligerent, the canal was to be closed to the war vessels of the belligerents, and to neutrals carrying contraband. In time of peace the canal was to be open to all nations on equal terms. Two free cities, under the "qualified dominion" of Nicaragua, were to be established at the termini of the canal. The United States, on their part, guaranteed to "protect and defend the State of Nicaragua in the pos-

[1] Travis, *The History of the Clayton-Bulwer Treaty*, pp. 36, 37, 42.

[2] *Ibid.*, p. 54.

session and exercise of the sovereignty and dominion" over all territory rightfully belonging to it.

The new administration of General Taylor disavowed the act of Mr. Hise, recalled him, and appointed Mr. E. G. Squier in his place. The policy of the administration was set forth in President Taylor's first annual message to Congress: "Should such a work (i. e., the trans-isthmian canal) be constructed under the common protection of all nations for equal benefits to all, it would be neither just nor expedient that any great maritime state should command the communication. * * * No such power should occupy a position that would enable it hereafter to exercise so controlling an influence over the commerce of the world, or to obstruct a highway which ought to be dedicated to the common uses of mankind."[1]

Nevertheless, the administration threatened to send the Hise treaty to the Senate unless Great Britain made some concessions. In an interview with Mr. Crampton, the British minister at Washington, Mr. Clayton, secretary of state, stated his objections to the treaty and especially to the "absurd stipulation" which bound the United States to guarantee to Nicaragua the integrity of her territory. Mr. Clayton's plan was as follows: That the United States should abandon the treaty concluded by Mr. Hise, and should propose to Nicaragua, simultaneously with Her Majesty's government, another treaty by which no exclusive advantage was to be conferred on either party, and the object of which should be to guarantee the safety of a company of capitalists to whom a charter should be granted by Nicaragua on reasonable terms. Any other power acceding to the terms of the treaty was to be admitted on equal footing with the original contracting parties.[2]

In the meantime Mr. Squier had obtained a concession from Nicaragua for the Atlantic and Pacific Ship-Canal Company (September, 1849), and concluded a treaty with that government by the terms of which the transit routes were to be open to the United States for all lawful purposes, the United States undertaking to

[1] *Messages and Papers of the Presidents*, Vol. V, p. 16.

[2] Letters of Mr. Crampton to Lord Palmerston, September 15, and October 1, 1849. Senate Executive Document No. 194, 47th Congress, 1st Session, pp. 55 *et seq.*

guarantee the sovereignty of Nicaragua over the line of the proposed canal, and to guarantee its neutrality. The Squier treaty was not acceptable to the administration, and was never ratified.[1]

In the United States popular feeling against England grew more bitter from day to day. In the south Great Britain was disliked on account of her anti-slavery sympathies, and throughout the country the Northwest boundary dispute had inflamed the public mind against England. A "jingo" press and party urged that the British aggressions in Central America would some day stand in the way of the "manifest destiny" of the United States to be lord of the American continent.

Acting under instructions of his government, Mr. Rives, accredited as American minister to France, conferred with Lord Palmerston in September, 1849, upon the subject of the Central American affairs. Mr. Rives informed Lord Palmerston that the United States could not acknowledge the legality of the British claims to the mouth of the river San Juan, and that as regards the canal the United States sought no exclusive or preferential right of any kind; that it was their sincere wish to see the canal dedicated to the common use of all nations on the most liberal terms, and on a footing of perfect equality; that the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.[2]

When Mr. Lawrence arrived at his post in London, late in 1849, he endeavored to induce the British government to join the United States in the guaranty of the Panama canal under the treaty of 1846 between the United States and New Granada, and further to persuade England to enter into a treaty with Nicaragua on a basis similar to the Hise treaty. The withdrawal of the protectorate over the Mosquito country was, however, a *sine qua non* to further negotiations. Lord Palmerston refused to yield this point, and Mr. Lawrence accomplished nothing. Shortly there-

[1] Travis. *The History of the Clayton-Bulwer Treaty*, pp. 66, 67.

[2] Mr. Rives to Mr. Clayton, September 25, 1849. Senate Executive Document No. 27, 32nd Congress, 2nd Session, pp. 20 *et seq.* Mr. Bancroft, the predecessor of Mr. Lawrence, had entered into negotiations with Lord Palmerston, which were, however, suddenly terminated by Mr. Bancroft's recall.

after the negotiations were transferred to Washington, and resulted in the Clayton-Bulwer treaty of April 19, 1850.

By the terms of this treaty the two governments agreed that "neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortification commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America." (Art. I.) "Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish." (Art. II.) By the fifth and sixth articles the contracting parties agreed to guarantee the neutrality of the transit route, and to invite other nations to enter into stipulations with them similar to those which they had entered into with each other. According to the eighth article, the two governments "having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus * * * and especially the interoceanic communications, * * * which are now proposed to be established by the way of Tehuantepec or Panama."

The Senate ratified the treaty on May 22, 1850, by a vote of 42 to 11. Among the statesmen who voted in favor of the treaty were Clay, Webster, Seward, and Cass. The ratifications were exchanged at Washington on July 4, 1850.

Before accepting the final exchange of ratifications, the British minister filed a statement in the Department of State at Washington, declaring that "Her Majesty does not understand the engagements of this convention to apply to Her Majesty's settlement at Honduras, or to its dependencies." Upon receipt of this communication Mr. Clayton wrote to the chairman of the Senate Committee on Foreign Relations: "I wish to leave no room for a charge of duplicity against our government, such as that we now pretend that Central America in the treaty includes British Hon-

duras. I shall therefore say to him, in effect, that such construction was not in the contemplation of the negotiators or the Senate at the time of the confirmation." To this Mr. King replied that "the Senate perfectly understood that the treaty did not include British Honduras." But Mr. Clayton was cautioned not "to use any expression which would seem to recognize the right of England to any portion of Honduras."[1]

Contemporary public opinion on the treaty, as reflected in the newspapers of the day, was divided on strict party lines. The anti-administration journals were loud in their denunciation of the treaty. The *New York Herald* (April 24 and 27) thinks that the whole negotiation was based on a gigantic stock-jobbing operation, and that Sir Henry Bulwer was sent to this country by the joint action of England and Spain to effect an agreement which would forever bar the United States from annexing Cuba. On the other hand, the *New York Tribune* and the *Boston Daily Advertiser* (both of April 24) are warm in their praises. "The treaty is everything," says the former, "that the country could ask." The semi-official *National Intelligencer* (April 27) says that the treaty "is such a compact as will reflect lasting honor on the statesmanship, and wise moderation and liberal spirit of the eminent negotiators, and on the governments under and for which they respectively acted." The same division of opinion existed in England. The *Times* (June 13) commends the action of Lord Palmerston in abandoning the exclusive pretensions of Great Britain to the Mosquito Coast. The *Spectator,* on the contrary, observes: "The value of the treaty is enhanced by its apparent impracticability. * * * The canal is secured—*in posse*—which is something. * * * Should there be no canal, the convention will be no more than a stale and cumbersome joke—a device to confer on the 'state of Mosquitia' some importance."

Disputes as to the proper interpretation of the Clayton-Bulwer treaty arose almost immediately, and as early as April 30, 1852, were sought to be settled by the Webster-Crampton treaty. By this convention a reservation was to be set apart for the Mosquitos, and San Juan was to be placed in the possession of Nicaragua. The distance within which the vessels of the two powers

[1]Snow, *Treaties and Topics in American Diplomacy*, pp. 333, 334.

were to be exempt from blockade and capture, in case of war, was fixed at twenty-five nautical miles from each of the termini of the canal. Nicaragua, however, refused to accept the terms of the agreement.

On July 17, 1852, the islands of Roatan, Bonacca, Utilla, Barbarat, Helene, and Morat were officially proclaimed a crown colony under the title of "The Colony of the Bay Islands." This was generally regarded in the United States as a flagrant violation of the Clayton-Bulwer treaty, and the matter was immediately taken up by Congress at its session of December, 1852. The Senate requested the President to lay before that body all information obtainable on that subject.[1] In the same session the Senate passed a resolution to the effect that the pretensions of Great Britain to the Mosquito Coast and the Bay Islands were violations of the Clayton-Bulwer treaty.

The chief point of dispute was the interpretation of the article relating to the occupation of Central America. Great Britain maintained that "the design of the contracting parties was not to disturb any state of things then existing;" the United States, on the contrary, insisted that the treaty was both prospective and retroactive in its operation.[2]

After the failure of Mr. Webster's efforts, the negotiations were transferred to London, and there continued by Mr. Buchanan and Mr. Dallas. The latter succeeded in concluding the Dallas-Clarendon treaty (October 17, 1856). The Dallas-Clarendon treaty failed of ratification in England because of an amendment added by the United States Senate by which Great Britain was to give up all rights to the Bay Islands, and to recognize them "as under the sovereignty and as part of the Republic of Honduras."

The British government immediately proposed another treaty in all respects identical with the Dallas-Clarendon treaty as amended by the Senate, but with a proviso to the effect that the recognition as to the position of the Bay Islands was to be conditioned upon the conclusion of a treaty between Great Britain and

[1]This was done January 4, 1853, *Messages and Papers of the Presidents*, Vol. V, p. 183.

[2]Mr. Marcy to Mr. Dallas, May 24, 1856. Senate Executive Document No. 161, 56th Congress, 1st Session, p. 3.

Honduras. This proposal was rejected by the American government.[1] The Clayton-Bulwer treaty therefore remained the measure of the rights of the two governments in Central America. As to the disposition of the difficulties arising out of that treaty, President Buchanan suggested that "the wisest course would be to abrogate it by mutual consent and to restore the *status quo ante*.[2] The only other means of settlement was arbitration. This was suggested by Great Britain, but rejected by the United States.

Shortly thereafter the United States concluded with Nicaragua the Cass-Yrissari treaty (November 16, 1857). By the terms of this treaty the United States secured the right of transit across the territories of Nicaragua, and the right to use the canal on the same terms as Nicaragua. The latter agreed further to establish two free ports, one at each terminus of the canal, but reserved the rights of sovereignty over the channel. The United States agreed to extend their protection to the routes of communication, to guarantee the neutrality of the canal, and to invite other nations to join with them in such protection and guaranty of neutrality. This treaty was not acceptable to the British government, and was objected to as a violation of the Clayton-Bulwer treaty. No serious question, however, arose, as the Republic of Nicaragua refused to ratify the act of its negotiator, an action, in part at least, attributable to the filibustering expeditions of Walker.[3]

In the autumn of 1857, the British government sent a special commissioner, Sir William Ouseley, to Central America in order to settle by means of separate treaties with the Central American republics the controversies arising out of the Clayton-Bulwer treaty. The special objects of his mission were: (1) the cession of the Bay Islands to Honduras; (2) the substitution of the sovereignty of Nicaragua for the protectorate of England in Mosquitia; and (3) the regulation of the frontiers of Belize. When the purpose of the Ouseley mission was communicated to President Buchanan by Lord Napier the former intimated that such an arrangement would be acceptable to the United States, provided that the controversies be settled in substantial accordance with

[1] *Messages and Papers of the Presidents*, Vol. V, p. 444.

[2] *Ibid.*

[3] Travis, *The History of the Clayton-Bulwer Treaty*, pp. 183 *et seq.*

the American construction of the treaty.[1] Sir William Ouseley was succeeded by Charles Lennox Wyke, who concluded treaties with Guatemala (April 30, 1859) in reference to the boundaries of Belize, with Honduras (November 28, 1859) for the restoration of the Bay Islands, and with Nicaragua (January 28, 1860) concerning the Mosquito protectorate. Under the last treaty Great Britain recognized the sovereignty of Nicaragua over the Mosquito territory, and agreed that the protectorate cease three months after the ratification of the treaty.[2]

In August, 1860, copies of these treaties were officially communicated to the United States and the controversies with Great Britain seemed at an end. In his annual message to Congress President Buchanan says: "The discordant constructions of the Clayton-Bulwer treaty * * * have resulted in a final settlement entirely satisfactory to this government."[3]

Shortly after the riots on the isthmus of Panama in 1856, the United States attempted to negotiate a new treaty with Colombia by which the former power was to acquire by purchase all the rights of the latter in the Panama railroad, and to secure certain islands at the termini of the canal as naval stations. The offer was, however, declined by Colombia.

In May, 1858, Nicaragua forfeited the charter of the American Canal Company and transferred all the rights of that company to M. Felix Belly of Paris. In addition to this the French government was given the right to station two war ships at the termini of the canal or in Lake Nicaragua. Against this the American government immediately protested. The Nicaraguan government was informed that no concession should be made which would interfere with engagements previously made with citizens of the United States, nor would the American government admit of the provision allowing the French government to station warships in Lake Nicaragua.[4] The French government failed to support M.

[1] Lord Napier to the Earl of Clarendon, October 22, 1857. Senate Executive Document No. 161, 56th Congress, 1st Session, pp. 114 *et seq.*

[2] On November 20, 1894, the Mosquito Reserve became a territory of Nicaragua.

[3] *Messages and Papers of the Presidents*, Vol. V, p. 639.

[4] Mr. Cass to Mr. Lamar, July 25, 1858. Senate Executive Document No. 161, 56th Congress, 1st Session, pp. 134, 135.

Belly, and in 1861 the American company re-organized and received its former concessions, thus closing an incident that might otherwise have led to serious complications. "It is a source of much satisfaction," says President Lincoln, in his annual message of 1864, "that the difficulties which for a moment excited some political apprehensions and caused a closing of the interoceanic transit route have been amicably adjusted."[1]

We may conclude that at the outbreak of the civil war all the questions relating to the trans-isthmian canal were satisfactorily adjusted. During the first half of the 60's domestic affairs absorbed the attention of the American people. But no sooner was peace restored than public interest in the isthmian transit revived. The assured success of the Suez enterprise again turned the attention of statesmen and capitalists to the Central American undertaking.

The close of the war marks the beginning of a new line of policy in regard to the canal. Prior to this we have seen that in every negotiation authorized by the government the United States sought no exclusive privileges in the transit routes, but desired merely their absolute neutrality. To attain this the United States had even departed from the Monroe doctrine, and had entered into an "entangling alliance" with Great Britain in concluding the Clayton-Bulwer treaty. But the outcome of the trial at arms produced self-reliance, and this in turn gave birth to a broader and more aggressive foreign policy. The statesmen of the succeeding period, we shall see, almost without exception, demanded that the United States have the control over whatever canal route be opened across the isthmus.

The old view is, however, still reflected in the Dickinson-Ayon treaty with Nicaragua (June 21, 1867). By this treaty the United States obtained the right of transit across the territory of Nicaragua and the right of transporting troops and munitions of war across such territory, provided the same were not to be employed against any Central American state friendly to Nicaragua. Nicaragua agreed to establish a free port at each terminus of the canal. The United States in turn agreed to extend their protection to the routes of communication, to guarantee the neutrality and innocent use of the same, and to induce other nations to join them in such guaranty of protection and neutrality.

[1] *Messages and Papers of the Presidents*, Vol. VI, p. 243.

President Grant took a personal interest in the canal, and favored its construction as a government enterprise. General Stephen A. Hurlbut was sent to Colombia, and there concluded the treaty of Bogota, January 26, 1870. Before, however, considering the terms of this convention, we must review briefly the efforts of the preceding administration. Negotiations had been begun by Mr. Seward in 1868 which resulted in the conclusion of a treaty with Colombia on January 14, 1869. According to this treaty, the obligations of which were to be permanent, the United States obtained the sole right to construct the canal, and to control the same, if necessary, by military force, and were guaranteed the peaceable enjoyment, control, and management thereof. Colombia was to retain the political sovereignty and jurisdiction over the channel. This treaty was submitted to the Senate on February 15, 1869, but failed of ratification. The treaty concluded by Mr. Hurlbut provided for an international guaranty of neutrality by allowing other nations to enter into similar stipulations. Both of the contracting parties reserved the right of passage for their own war vessels, but provided that the ships of war of nations at war with either of them were to be excluded. The United States guaranteed that the canal was to be exempt from all hostile acts. To this treaty the Parliament of Colombia made a number of amendments which the United States Senate refused to accept.

The International Scientific Congress convened in Paris in 1879. The United States were represented by eleven delegates who were, however, instructed not to commit their government to any plan or policy. The adoption of the Panama route—by what means need not be here related—again centered public attention on the lower isthmus. The United States could not but regard the French enterprise with jealousy, and as a violation of the Monroe doctrine. It was believed that M. de Lesseps desired a joint protectorate of the canal by the European powers. The subject was extensively discussed at the meeting of Congress of that year, and the Clayton-Bulwer treaty came in for its share of attention. The Senate passed a resolution that no canal should be allowed to be opened unless it was practically under the control of the United States. On April 16, 1880, the Senate passed a resolution to abrogate the Clayton-Bulwer treaty.

On March 8, 1880, President Hayes announced in unequivocal

language the policy of his administration on the subject of the isthmian transit: "The policy of this country is a canal under American control. The United States can not consent to the surrender of this control to any European power, or to any combination of European powers. If existing treaties between the United States and other nations, or if the rights of sovereignty or property of other nations stand in the way of this policy—a contingency which is not apprehended—suitable steps should be taken by just and liberal negotiations to promote and establish the American policy on this subject consistently with the rights of the nations to be affected by it. * * * An interoceanic canal across the American isthmus will essentially change the geographical relations between the Atlantic and Pacific coasts of the United States and between the United States and the rest of the world. It would be the great ocean thoroughfare between our Atlantic and our Pacific shores, and virtually a part of the coast line of the United States. Our merely commercial interest in it is greater than that of all other countries, while its relations to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety, are matters of paramount concern to the people of the United States. No other great power would, under similar circumstances, fail to assert a rightful control over a work so closely and vitally affecting its interest and welfare. * * * It is the right and the duty of the United States to assert and maintain such supervision and authority over any interoceanic canal across the isthmus that connect North and South America as will protect our national interests."[1]

New Policy X

In accordance with this line of policy, Mr. Evarts proposed a treaty with Colombia by which "all concessions and privileges granted or to be granted by the United States of Colombia with the view of assuring the construction of an interoceanic canal * * * are and shall be subject to the rights acquired by the United States of America by virtue of the guaranty given by them in the thirty-fifth article of the treaty of 1846." Colombia was to obtain the consent of the United States before granting any concessions, and to permit the latter power to fortify the canal. This

[1] *Messages and Papers of the Presidents*, Vol. VII, pp. 585, 586.

proposal was rejected, and a modified treaty concluded February 17, 1881, failed of ratification by Colombia.[1]

President Garfield accepted the views of his predecessors. "We will urge no narrow policy," says he in his inaugural address, "nor seek peculiar or exclusive privileges in any commercial route; but * * * I believe it to be the right and duty of the United States to assert and maintain such supervision over any interoceanic canal across the isthmus that connects North and South America as will protect our national interests."[2]

The report was current that the European powers were endeavoring to effect a joint guaranty of the de Lesseps enterprise. It was as a protest to such action that Mr. Blaine sent a circular letter of instructions to the American ministers at the European courts. Mr. Blaine disclaimed any intention on the part of the United States to interfere in the management of the canal viewed purely as a commercial enterprise, nor in its use in times of peace. "But," continues Mr. Blaine, "it is, as regards the political control of such a canal, as distinguished from its merely administrative or commercial regulation, that the President feels called upon to speak with directness and emphasis. During any war to which the United States of America * * * might be a party, the passage of armed vessels of a hostile nation through the canal of Panama would be no more admissible than would the passage of armed forces of a hostile nation over the railway lines joining the Atlantic and Pacific shores of the United States. * * * The United States will insist upon her right to take all needful precautions against the possibility of the isthmus transit being in any event used offensively against her interests upon the land or upon the sea. * * * An agreement between the European states to jointly guarantee the neutrality and in effect control the political character of a highway of commerce, remote from them and near to us, forming substantially a part of our coast line, and promising to become the chief means of transportation between our Atlantic and Pacific states, would be viewed by this government with gravest concern."[3]

[1] Snow, *Treaties and Topics in American Diplomacy*, pp. 340, 341.

[2] *Messages and Papers of the Presidents*, Vol. VIII, p. 11.

[3] Mr. Blaine to Mr. Lowell (and *mutatis mutandis* to the other American representatives), June 24, 1881. Senate Executive Document No. 161, 56th Congress, 1st Session, pp. 174-176.

It is worthy of note that Secretary Blaine ignored entirely the existence of the Clayton-Bulwer treaty. Lord Granville's reply was merely to the effect that, so far as Great Britain was concerned, all rights were determined by the Clayton-Bulwer treaty and that "Her Majesty's government rely with confidence upon the observance of all the engagements of that treaty."[1]

Prior to the receipt of Lord Granville's communication, Mr. Blaine had dispatched his famous letter of November 19, 1881, which has been rightly called "one of the most remarkable state papers ever penned." In July of this year the award of the Emperor of Austria in the disputes between Great Britain and Nicaragua arising out of the treaty of Managua (January 28, 1860) had been made public, and under that award Great Britain had revived the old protectorate over the Mosquito territory.

Mr. Blaine insisted that the Clayton-Bulwer treaty was no longer binding on the United States because it was concluded over thirty years ago, under exceptional and extraordinary circumstances. That since the conclusion of the treaty the remarkable development of the Pacific coast had devolved new responsibilities on the American government which made some changes in the Clayton-Bulwer treaty imperative. The mutual promises of the two governments not to fortify the canal placed the United States at a decided disadvantage by reason of the superior naval strength of England. Nor would a guaranty of neutrality by all the European powers prove any more effectual because "the first sound of a cannon in a general European war would in all probability annul the treaty of neutrality, and the strategic position of the canal, commanding both oceans might be held by the first naval power that could seize it. * * * It consequently becomes evident that the one conclusive mode of preserving the isthmus canal from the possible distraction and destruction of war is to place it under the control of that government least likely to be engaged in war (scil. the United States)." On these grounds the American secretary of state proposed, as one of the required modifications of the treaty, that permission be granted to the United States to fortify the canal

[1]Lord Granville to Mr. Hoppin, Nov. 10, 1881. Senate Executive Document No. 161, 56th Congress, 1st Session, p. 178.

and to obtain the political control of it in conjunction with the nation through whose territory it was to pass.[1]

To this Lord Granville replied that the development of the Pacific coast had not been an unexpected one, and that it was certainly not such a change of conditions as to warrant "vitiating the foundations of an agreement which can not be supposed to have been concluded without careful thought and deliberation." Lord Granville then pointed out that the interests of Great Britain in the canal are equal to those of the United States.

Upon the retirement of Mr. Blaine, the discussion was taken up by Mr. Frelinghuysen. The new secretary of state maintained that the Clayton-Bulwer treaty was voidable at the option of the United States on two grounds: First, that the treaty had in view a particular object, to wit, a then projected canal by the Nicaragua route. The main reason for the admission of Great Britain on equal terms with the United States was that the necessary capital required for the construction could not be obtained in this country. That on the failure of that particular project the reason for the continued enforcement of the treaty ceased.[2] Second, that Great Britain had violated a material provision of that treaty by erecting the "settlement" of Belize into a crown colony, contrary to the stipulation of the contracting parties that neither shall colonize Central America.

In reply to Lord Granville's argument that the eighth article negatived the intention of the parties to apply the provisions of the treaty only to a then projected canal, Mr. Frelinghuysen states that Article VIII. in terms related only to the protection of the communication *now* (i. e., 1850) proposed to be established by the way of Tehuantepec or Panama. That, moreover, the article was merely a declaration of intention to enter into negotiations at some subsequent time upon the subjects there specified.[3]

[1] Mr. Blaine to Mr. Lowell, November 19, 1881. Wharton, *Digest of the International Law of the United States*, Vol. II, pp. 209-215.

[2] Of this argument Mr. Olney, secretary of state under President Cleveland, says: It "is ingenious rather than sound, antagonizes the language of the treaty itself, and is unsupported by any contemporary conduct or construction." *The Clayton-Bulwer Treaty*, p. 15.

[3] Letters of Mr. Frelinghuysen to Mr. Lowell, May 8, 1882, May 5, 1883, and November 22, 1883. Wharton, *Digest of the International Law of the*

President Arthur favored a canal by way of Lake Nicaragua. He believed that French influence would continue to dominate the lower isthmus, and that this should be counter-balanced, if need be, by the construction of a second canal by way of Nicaragua. Negotiations were entered into with Nicaragua and resulted in the Frelinghuysen-Zavala treaty of December 1, 1884. The first article of the treaty provides that "the canal shall be built by the United States of America, and owned by them and the Republic of Nicaragua." The next article stipulates that "there shall be perpetual alliance between the United States and the Republic of Nicaragua; and the former agree to protect the integrity of the territory of the latter."

The Frelinghuysen-Zavala treaty was withdrawn from the Senate by President Cleveland, who entirely repudiated the policy of his immediate predecessors in regard to the canal. "The lapse of years," says the President, "has abundantly confirmed the wisdom and foresight of those earlier administrations which long before the conditions of maritime intercourse were changed and enlarged by the progress of the age, proclaimed the vital need of interoceanic transit across the American isthmus, and consecrated it in advance to the common use of mankind. * * * Toward such realization the efforts of my administration will be applied, ever bearing in mind the principles on which it must rest, and which were declared in no uncertain terms by Mr. Cass, who, while secretary of state, in 1858, announced that 'what the United States want in Central America, next to the happiness of its peoples, is the security and neutrality of the interoceanic routes which lead through it.' "[1]

The American company organized shortly after the conclusion of the Frelinghuysen-Zavala treaty obtained a concession from the Nicaraguan government to build and operate a canal for the period of ninety-nine years. An accessory construction company was also organized, and work was seriously undertaken on the channel.

President Harrison, in his second annual message to Congress, recommended that the United States guarantee the bonds of the

United States, Vol. II, pp. 219-235. For a criticism of the positions taken by Mr. Freylinghuysen, *vide* Lawrence, *Essays on Some Disputed Questions in International Law*, p. 121 *et passim*.

[1] *Messages and Papers of the Presidents*, Vol. VIII, p. 328.

canal company in order to prevent their sale at a large discount. The United States were, in case of loss, to be subrogated to the rights of first mortgagees, and to retain a control of the stock of the enterprise.[1] Mr. Harrison had also supported the Frelinghuysen-Zavala treaty while he was in the Senate.

The annexation of Hawaii and the events of the Spanish-American war, notably the long voyage of the "Oregon" around Cape Horn, again demonstrated the urgent need of the canal, and the necessity of its control by this government. Accordingly we find a recommendation to that effect in the second annual message of President McKinley in the following terms: "That the construction of such a maritime highway is now more than ever indispensable to that intimate and ready intercommunication between our eastern and western seaboards demanded by the annexation of the Hawaiian Islands and the prospective expansion of our influence and commerce in the Pacific, and that our national policy now more imperatively than ever calls for its control by this government, are propositions which I doubt not the Congress will duly appreciate and wisely act upon."[2]

On February 5, 1900, secretary of state Hay and the British representative, Lord Pauncefote, concluded a treaty by which the rights of their respective governments were determined anew. By this treaty the United States were empowered to construct the canal, or to permit its construction by individuals, and to make rules for its regulation and management. (Art. I.) As a basis for the neutralization of the canal, "the high contracting parties" adopted the rules of the treaty of Constantinople of October 29, 1888. (Art. II.) Both parties agreed to invite other nations to join them in the guaranty of neutrality. (Art. III.)

The Senate adjourned in June, 1900, without ratifying the treaty, and Great Britain extended the period of ratification to March 4, 1901. At the opening of the session of Congress in the following December, the canal treaty formed the chief topic of discussion. On December 13, the Senate adopted the "Davis amendment" by which the first five sections of Article II. were declared not to apply "to measures which the United States may

[1] *Ibid.*, Vol. IX, pp. 188-190, 317.

[2] *Ibid.*, Vol. X, p. 180.

find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order." Two days thereafter Senator Foraker proposed the insertion of the words "which convention is hereby superseded" after the words "Clayton-Bulwer treaty" in the first article, and further the entire omission of the third article. Both of these amendments were adopted, and the treaty in its amended form was ratified on December 20, 1900.

The amendments did not prove acceptable to the British government, and on November 18, 1901, a new treaty was concluded by the negotiators of the first treaty. Under the new Hay-Pauncefote treaty, which was ratified by the Senate on December 16, 1901, the Clayton-Bulwer treaty is declared to be superseded (Art. I.), and the United States are given the same rights as to the construction of the canal as under the first treaty. (Art. II.) The third article provides that the "United States adopts" as a basis of neutralization the rules of the Suez canal convention. The new treaty omits the prohibition against the erection of fortifications along the canal, but the United States is given the right to police the canal, as under the old treaty. It furthermore substitutes for the provision in the 1900 treaty by which the canal was to remain free and open "in time of war as in time of peace to the vessels of commerce and of war of all nations," a stipulation that the canal shall "be free and open to the vessels of commerce and war of all nations observing these rules," without the addition of the words "in time of war as in time of peace." The "Davis amendment" was not embodied in the new treaty. Nothing is said concerning the accession of other powers to the treaty, but the fourth article stipulates that "no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties."

Before discussing the most recent events on the isthmus, we shall review briefly the attitude of the legislative branch of the government towards the undertaking. In 1889, the Senate, by an almost unanimous vote, passed a resolution to the effect that any connection with a European power in regard to the trans-isthmian canal would meet with its disapproval. On January 10, 1891, the

Senate Committee on Foreign Relations presented a bill under which the government was to guarantee an issue of bonds of the Nicaragua Canal Company to an amount not exceeding $100,000,000, in return for which the government was to receive $70,000,000 of stock. In December of the following year, a similar bill was introduced, by which the United States was to receive $80,500,000 of stock. To this Senator Quay proposed an amendment that the United States first secure the right to fortify the termini of the canal, and to maintain one or more vessels of war on Lake Nicaragua; and Senator Stewart submitted an amendment that the United States purchase the rights of the canal company and build the canal as a government enterprise.

On August 15, 1893, Senator Frye introduced a bill by which the United States were to guarantee an issue of bonds amounting to $100,000,000, in consideration of receiving all the stock of the company remaining after the payment of $12,000,000 to the Canal Company, and any further sum still due Nicaragua and Costa Rica for the concessions granted. On January 22, 1894, Senator Walthall, in behalf of Senator Morgan, introduced a bill by the terms of which the government was to guarantee $70,000,000 of bonds of the company and receive in return $70,000,000 in stock. An amendment was again proposed by Senator Quay similar in terms to that proposed by him in the preceding session.

In the following year the House Committee on Interstate and Foreign Commerce reported a bill by which the stockholders in the Canal Company were to receive in exchange for their old stock an amount sufficient to reimburse them for actual expenditures, the government practically controlling the undertaking. This bill was discussed for almost a month in 1897.

On June 1, 1896, Senator Morgan introduced another bill, similar to the one submitted in January, 1891, and noted above. To this Senator Rawlins submitted an amendment that the act should not take effect until the United States secured the right to fortify the canal, and that the right to move troops and munitions of war across the canal in times of war, should be open only to the United States, Costa Rica, and Nicaragua.

On December 15, 1898, Senator Caffery moved as a substitute another bill providing for the payment of $5,000,000 to the Canal Company, and the building of the canal as a government undertaking at a cost not exceeding $140,000,000.

Senator Spooner submitted an amendment by which the President, if unable to secure such concession from Nicaragua and Costa Rica as will enable the government to own and control the canal, was authorized to negotiate for the ownership and control of some other canal; and that the President be further authorized to negotiate for the abrogation or modification of any treaties which might interfere with such ownership and perpetual control by the United States. The bill, in substantially its original form, was passed in the Senate by a vote of 48 to 6. The House, however, refused to concur.

The Maritime Canal Company's franchises were formally declared forfeited for non-compliance with the conditions annexed, in 1898. In October of the same year, a new Canal Company was organized, and both organizations appealed to Congress and the Executive for recognition and assistance. About the same time the Panama Company began its efforts to interest the United States government in its behalf.

On December 7, 1899, a bill "to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans" was introduced in the House by Mr. Hepburn. The House bill as originally introduced provided for the acquisition of such of the territory of Costa Rica and Nicaragua as might be necessary to excavate, construct, and defend a canal to extend from a point near Greytown (San Juan) via Lake Nicaragua to Brito. The bill as finally passed, May 2, 1900, by a vote of 224 to 36, provided in general terms for the acquisition of such territory as may be desirable and necessary for the excavation, construction and preservation of a canal extending from some point on the Carribean Sea to some point on the Pacific Ocean, the route selected to be such as the President shall determine. The bill further provided for an ultimate appropriation of $140,000,000.

A similar bill introduced in the Senate on December 18, 1899, appropriating $130,000,000 and providing for a modification of the Clayton-Bulwer treaty, failed of acceptance by a vote of 15 to 33 (April 14, 1900).

On December 4, 1901, a bill "to provide for acquiring the right necessary for the construction of a canal connecting the waters of the Atlantic and Pacific oceans" was introduced by Senator Morgan.

The act finally passed, and approved June 28, 1902, provides for the acquisition by the government of the United States of all the rights, property, and franchises of the New Panama Canal Company at a cost not exceeding $40,000,000. The President is further authorized to acquire from the Republic of Colombia the perpetual control over a strip of land not less than six miles in width along the route of the Panama canal, and the right to exercise jurisdiction over said strip and the ports at the ends thereof. Should the President be unable to obtain on reasonable terms and within a reasonable time the rights and property of the Panama Company, and the control over the strip of territory from Colombia, he is authorized to negotiate with Costa Rica and Nicaragua for the acquisition of perpetual control of the territory necessary for the construction, maintenance, and protection of a canal by the Nicaragua route. Additional appropriations of not more than $135,000,000, or of not more than $180,000,000, according as the route selected be the Panama or the Nicaragua route, were made for the actual expenses of construction.

In accordance with the terms of this act negotiations were entered into with the Panama Company, and the sum of $40,000,000 agreed upon as the compensation for all of the franchises, concessions, unfinished works, plants, and other property of the company. The Attorney-General, after an exhaustive investigation, concluded that the United States could acquire these rights by purchase from the existing company.

After considerable delay, due partly to the unsettled political situation in Colombia, partly to the personal attitude of the Colombian minister toward the entire negotiation, a treaty was finally concluded on January 22, 1903, by Secretary Hay and the Colombian chargé d'affaires, Dr. Herran. Under this agreement the United States were to receive substantially all of the rights which the President was authorized to negotiate for under the act of June 28, 1902. Two points were, however, conceded to Colombia: first, in order to avoid objections on constitutional grounds on the part of Colombia, the exclusive rights, instead of being granted in perpetuity, were granted "for the term of one hundred years, renewable at the sole and absolute option of the United States, for periods of similar duration so long as the United States may desire;" second, it was stipulated that "the rights and privileges

granted to the United States * * * shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised. The United States freely acknowledges and recognizes this sovereignty, and disavows any intention to impair it in any way whatever, or to increase its territory at the expense of Colombia or any of the sister republics in Central or South America, but, on the contrary, it desires to strengthen the power of the republics on this continent, and to promote, develop, and maintain their prosperity and independence."

The Hay-Herran treaty was ratified by the United States Senate on March 17, and laid before the Colombian Congress early in the following July. For reasons that will perhaps never be fully known, the Colombian Senate rejected the treaty by an almost unanimous vote, and adjourned after approving a bill authorizing the government to enter into new negotiations providing for an increase in the cash payment and annuities, and the retention of jurisdiction of Colombia over the canal zone.

After the rejection of the Hay-Herran treaty, events followed each other with astounding rapidity. On November 3, the expected revolution in Panama began. Colombia, entirely unprepared, offered no resistance. On the 6th the United States recognized the de facto government in Panama in the following telegram to Mr. Ehrman: "The people of Panama have, by unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence. When you are satisfied that a de facto government, republican in form and without substantial opposition from its own people, has been established in the state of Panama, you will enter into relations with it as the responsible government of the territory and look to it for all due action to protect the persons and property of citizens of the United States, and to keep open the isthmian transit in accordance with the obligations of existing treaties governing the relations of the United States to that territory." At the same time the American representative at Bogota was instructed to communicate to the Colombian government the action taken by the United States, and to recommend the peaceful and equitable settlement of all questions that might arise between Colombia and her revolted state.

On the following day M. Philippe Bunau-Varilla was appointed the diplomatic representative of the new republic at Washington, and was officially received as such by the President on the 13th. Three days later the correspondence and documents relating to the affairs in Panama were made public.

President Roosevelt, in his annual message of December 7, 1903, as well as in a special message transmitted on January 4th of the present year, sets forth the facts justifying the action of the United States. In the first message, after detailing the acts of the United States on the isthmus, he states that they establish beyond question: "first, that the United States has for over half a century patiently and in good faith carried out its obligations under the treaty of 1846; second, that when for the first time it became possible for Colombia to do anything in requital of the services thus repeatedly rendered to it for fifty-seven years by the United States, the Colombian government peremptorily and offensively refused thus to do its part, even though to do so would have been to its advantage and immeasurably to the advantage to the state of Panama, at that time under its jurisdiction; third, that throughout this period revolutions, riots, and factional disturbances of every kind have occurred one after the other, in almost uninterrupted succession, some of them lasting for months or even for years, while the central government was unable to put them down or to make peace with the rebels; fourth, that these disturbances, instead of showing any sign of abating, have tended to grow more numerous and more serious in the immediate past; fifth, that the control of Colombia over the isthmus of Panama could not be maintained without the armed intervention and assistance of the United States. * * * Under such circumstances the government of the United States would have been guilty of folly and weakness amounting in their sum to a crime against the nation had it acted otherwise than it did when the revolution of November 3 last took place in Panama. This great enterprise of building the interoceanic canal can not be held up to gratify the whims, or out of respect to the governmental impotence, or to the even more sinister and evil political peculiarities, of people who, though they dwell afar off, yet against the wish of the actual dwellers on the isthmus assert an unreal supremacy over the territory. The possession of a territory fraught with

such peculiar capacities as the isthmus in question carries with it obligations to mankind. The course of events has shown that this canal can not be built by private enterprise or by any other nation than our own; therefore, it must be built by the United States." In his special message the President states that the recognition of Panama can be justified on three grounds: first, the treaty rights of the United States; second, the national interests of commercial development and self-defense; and third, the interests of collective civilization in the maintenance of an open highway across the isthmus.

In reference to the insinuations that have been made in various quarters to the effect that the government of the United States was implicated in the revolutionary movement in Panama, President Roosevelt states that they are "as destitute of foundation as of propriety. * * * No one connected with this government had any part in preparing, inciting, or encouraging the late revolution."

The negotiations entered into between Mr. Hay and M. Bunau-Varilla resulted in the conclusion of a treaty (November 18th) which was submitted to the Senate at the opening of the present session. By the terms of this agreement "the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of the zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles, extending to the distance of five miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea, three marine miles from mean low-water mark, and extending to and across the isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low-water mark, with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included in this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance,

operation, sanitation, and protection of the said enterprise. The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of all islands within the limits of the zone above described, and in addition thereto the group of small islands in the Bay of Panama named Perico, Nacs, Culebra, and Flamingo." (Art. II.) The sovereignty and jurisdiction of the United States within these limits is to be absolute. (Art. III.) The United States further receive in perpetuity the monopoly of all systems of canal or railroad transportation across the isthmus. (Art. IV.) Colon and Panama, and the termini of the canal are declared free ports (Art. IX.), and the two first-named are subjected to the sanitary regulations made for them by the United States. (Art. VII.) The United States are given the right to land and station troops, and to erect fortifications, in order to protect the canal. (Art. XXI.) Finally, no change in the government or laws of Panama affecting the rights of the United States can be made without the consent of the latter power. (Art. XXIII.)

In return, the United States guarantees to Panama its independence, and is to pay the latter power the sum of $10,000,000 upon the exchange of ratifications, and beginning nine years from that date, the sum of $250,000 annually during the continuance of the agreement. (Art. XXII.) The canal, when constructed, and the entrances thereto shall be neutral in perpetuity. (Art. XVI.)

This treaty was ratified by the provisional government of Panama, without amendment, on December 2d. Ratification by the United States Senate was delayed by the obstructive tactics of the Democratic minority, who seized the opportunity for arraigning the President's entire policy in reference to the recognition of Panama, and the negotiation of the treaty. An effort to bind the Democrats by caucus rule, however, failed. February 23d was finally agreed upon for the taking of the vote, and upon this day the treaty was ratified, without amendment, by a vote of 66 to 14. All of the Republican and fourteen of the Democratic Senators voted in favor of the measure. An amendment to grant compensation to Colombia for the loss of Panama was rejected by a vote of 24 to 49. The ratifications were exchanged at Washington on February 26th.

In following the history of the negotiations in reference to the

trans-isthmian canal it will have become apparent that the United States has followed three distinct lines of policy. The first, which distinguished the diplomacy prior to the civil war, favored the construction of the canal as a private enterprise, and its free and unlimited use by all nations, subject to control by none. The second line of policy was inaugurated as part of the larger diplomacy of Mr. Seward, and was carried to its height by Mr. Blaine and Mr. Frelinghuysen. This policy still advocated a canal constructed by private capitalists, but subject to the political control of the United States. The third and present policy is that of a canal constructed as a government enterprise, and under the control of the United States. This view was clearly favored by President Grant, but did not become a settled policy of the government until the administrations of Harrison and McKinley. It finds its latest and most effective expression in the act of Congress of June 28, 1902, and in the Panama treaty.

The canal is assured, and events have decided the question of the route. After centuries the strait will be made to yield up its secret. It is submitted that, for the present, government control of the canal by the United States furnishes the best possible solution of its international position. Time alone will show whether Europe will acquiesce in America's exclusive control over a great highway of commerce.

From the view-point of world politics the construction and operation of the canal as a government undertaking means the extension of the political control of the United States over the Spanish-American nations. Perhaps the canal may one day become "a part of the coast line of the United States." The next generation may see the fulfilment of the prophecy of de Tocqueville that the Anglo-American empire will some day extend from the polar ice to the tropics.

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